

ESTTA Tracking number: **ESTTA502308**

Filing date: **10/26/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	10/28/2012
Address	7000 Coliseum Way Second Floor Oakland, CA 94621 UNITED STATES

Attorney information	Mary L. Kevlin Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES sis@cll.com, trademark@cll.com, jmn@cll.com Phone:212-790-9200
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Applicant Information

Application No	85474290	Publication date	05/01/2012
Opposition Filing Date	10/26/2012	Opposition Period Ends	10/28/2012
Applicant	Warrior Athletics LLC Cuddy & Feder, 445 Hamilton Ave., 14 Fl. White Plains, NY 10601 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: Books and printed instructional and teaching manuals in the field of sports and entertainment, namely, in the fields of mixed martial arts, fitness and exercise; magazines and newspapers featuring sports and entertainment; calendars; posters and programs for sports competitions and sporting events, namely, competitions and events involving mixed martial arts; photographs; postcards; trading cards; stickers; catalogs featuring sports and fitness merchandise
Class 018. All goods and services in the class are opposed, namely: Sports and fitness bags; back packs; book bags; duffel bags; tote bags; footlockers
Class 025. All goods and services in the class are opposed, namely: Clothing and apparel, namely, martial arts uniforms, athletics uniforms, referee uniforms, shirts, t-shirts, jerseys, vests, sweaters, jackets, parkas, shorts, pants, slacks, belts, socks, shoes, boots, slippers, sandals, loungewear, jogging suits, sweatshirts, sweatpants, swimwear, beach wear, tank tops, undergarments, wristbands, headwear, bandanas
Class 028.

All goods and services in the class are opposed, namely: Equipment for mixed martial arts, fitness, exercise and self-defense, namely, training gloves, heavy bag gloves, competition gloves, cage gloves, grappling gloves, kicking shields, shin guards, female chest protectors, punch mitts, point fighting hand gear, cups, pads, wraps, kick targets, foot gear, body shields, training vests, sparring vests

Class 035.

All goods and services in the class are opposed, namely: Promoting sports competitions and sporting events, namely, competitions and events involving mixed martial arts

Class 041.

All goods and services in the class are opposed, namely: Organizing live sports competitions, sporting events, and performances, namely, competitions, events and performances involving mixed martial arts; health club and gym services, namely, providing instructional and training classes, workshops, seminars, and presentations in the fields of mixed martial arts, fitness, exercise, and self-defense

Grounds for Opposition

Other	Please see attached filing.
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Attachments	WARRIOR ATHLETICS Ltr to Commr.pdf (1 page)(72743 bytes) WARRIOR ATHLETICS NOO.pdf (7 pages)(45742 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Seth Shaifer/
Name	Seth Shaifer
Date	10/26/2012



Cowan, Liebowitz & Latman, P.C.
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October 26, 2012

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Athletics Investment Group LLC d/b/a The Oakland Athletics
Baseball Company
Notice of Opposition Against
Warrior Athletics
Application to register WARRIOR ATHLETICS
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/474,290 published in the Official Gazette on May 1, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$1,800 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Seth Shaifer/
Seth Shaifer

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)
Richard S. Mandel, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/474,290
Filed: November 16, 2011
For Mark: WARRIOR ATHLETICS
Published in the Official Gazette: May 1, 2012

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ATHLETICS INVESTMENT GROUP LLC D/B/A	:	
THE OAKLAND ATHLETICS BASEBALL	:	Opposition No.
COMPANY,	:	
	:	
Opposer,	:	
	:	
v.	:	<u>NOTICE OF OPPOSITION</u>
	:	
WARRIOR ATHLETICS LLC,	:	
Applicant.	:	
	:	
	:	
-----X		

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company (“Opposer”), a California limited liability company, with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration of the standard character word mark WARRIOR ATHLETICS (“Applicant’s Mark”) in International Class 16 for “Books and printed instructional and teaching manuals in the field of sports and entertainment, namely, in the fields of mixed martial arts, fitness and exercise; magazines and newspapers featuring sports and entertainment; calendars; posters and programs for sports competitions and sporting events, namely, competitions and events involving mixed martial arts; photographs; postcards; trading cards; stickers; catalogs featuring sports and fitness merchandise,” in International Class 18 for “Sports and fitness bags; back packs; book bags;

duffel bags; tote bags; footlockers,” in International Class 25 for “Clothing and apparel, namely, martial arts uniforms, athletics uniforms, referee uniforms, shirts, t-shirts, jerseys, vests, sweaters, jackets, parkas, shorts, pants, slacks, belts, socks, shoes, boots, slippers, sandals, loungewear, jogging suits, sweatshirts, sweatpants, swimwear, beach wear, tank tops, undergarments, wristbands, headwear, bandanas,” in International Class 28 for “Equipment for mixed martial arts, fitness, exercise and self-defense, namely, training gloves, heavy bag gloves, competition gloves, cage gloves, grappling gloves, kicking shields, shin guards, female chest protectors, punch mitts, point fighting hand gear, cups, pads, wraps, kick targets, foot gear, body shields, training vests, sparring vests,” in International Class 35 for “Promoting sports competitions and sporting events, namely, competitions and events involving mixed martial arts,” and in International Class 41 for “Organizing live sports competitions, sporting events, and performances, namely, competitions, events and performances involving mixed martial arts; health club and gym services, namely, providing instructional and training classes, workshops, seminars, and presentations in the fields of mixed martial arts, fitness, exercise, and self-defense” as shown in Application Serial No. 85/474,290 (the “Application”), and having been granted extensions of time to oppose up to and including October 28, 2012, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club.
2. Since long prior to November 16, 2011, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the name and mark ATHLETICS, alone or with other word, letter and/or design elements (the “Opposer’s ATHLETICS Marks”), in connection with baseball games and exhibition

services and a wide variety of goods and services, including, but not limited to, apparel, including without limitation, shirts, pants, jackets, hats and caps, swimwear and athletic uniforms; tote bags; all-purpose sport bags; sports and fitness bags; backpacks; jewelry; paper products and printed matter, including, without limitation, magazines, calendars, programs, photographs, postcards, trading cards, stickers and posters; toys and sporting goods; and novelty items.

3. Opposer owns United States federal registrations for Opposer's ATHLETICS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348; 2,759,932; 3,349,789; 3,538,727; 3,633,242 and 3,633,243. Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 1,570,831; 2,573,396 and 2,630,348 are incontestable.

4. Since long prior to November 16, 2011, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, apparel, including without limitation, shirts, pants, jackets, hats and caps, swimwear and athletic uniforms; tote bags; all-purpose sport bags; sports and fitness bags; backpacks; jewelry; paper products and printed matter, including, without limitation, magazines, calendars, programs, photographs, postcards, trading cards, stickers and posters; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, Opposer has built up highly valuable

goodwill in Opposer's ATHLETICS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On November 16, 2011, Applicant filed the Application for Applicant's Mark for "Books and printed instructional and teaching manuals in the field of sports and entertainment, namely, in the fields of mixed martial arts, fitness and exercise; magazines and newspapers featuring sports and entertainment; calendars; posters and programs for sports competitions and sporting events, namely, competitions and events involving mixed martial arts; photographs; postcards; trading cards; stickers; catalogs featuring sports and fitness merchandise" in International Class 16 for "Sports and fitness bags; back packs; book bags; duffel bags; tote bags; footlockers" in International Class 18 for "Clothing and apparel, namely, martial arts uniforms, athletics uniforms, referee uniforms, shirts, t-shirts, jerseys, vests, sweaters, jackets, parkas, shorts, pants, slacks, belts, socks, shoes, boots, slippers, sandals, loungewear, jogging suits, sweatshirts, sweatpants, swimwear, beach wear, tank tops, undergarments, wristbands, headwear, bandanas" in International Class 25 for "Equipment for mixed martial arts, fitness, exercise and self-defense, namely, training gloves, heavy bag gloves, competition gloves, cage gloves, grappling gloves, kicking shields, shin guards, female chest protectors, punch mitts, point fighting hand gear, cups, pads, wraps, kick targets, foot gear, body shields, training vests, sparring vests" in International Class 28 for "Promoting sports competitions and sporting events, namely, competitions and events involving mixed martial arts," in International Class 35 and for "Organizing live sports competitions, sporting events, and performances, namely, competitions, events and performances involving mixed martial arts; health club and gym services, namely, providing instructional and training classes, workshops, seminars, and presentations in the fields

of mixed martial arts, fitness, exercise, and self-defense” in International Class 42, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant's Mark for the goods and services covered in the Application in United States commerce prior to its constructive first use date of November 16, 2011.

8. The goods and services covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer's ATHLETICS Marks.

9. Applicant's Mark so resembles Opposer's ATHLETICS Marks as to be likely, when used in connection with Applicant's goods and services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Seth Shaifer (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
October 26, 2012

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Seth Shaifer/

Mary L. Kevlin
Richard S. Mandel
Seth Shaifer
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 26, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Anthony P. Luisi, Esq., Cuddy & Feder LLP, 445 Hamilton Avenue, 14th Floor, White Plains, New York 10601-1874.

/Seth Shaifer/
Seth Shaifer